

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTEN DISTRICT OF MISSOURI**

CHERI WILLIAMS,)	
)	
Plaintiff,)	Case No.:
v.)	Division:
)	
UNITED STATES POSTAL SERVICE)	
Serve:)	JURY TRIAL DEMANDED
U.S. Attorney, Teresa A. Moore)	
400 E. 9 th Street, Room 5510)	
Kansas City, Missouri 64106)	
)	
Defendant.)	

COMPLAINT

COMES NOW Plaintiff Cheri Williams, by and through her attorneys, James Montee and the Montee Law Firm, P.C., and, for their cause of action against Defendant United States Postal Service states and alleges the following:

GENERAL ALLEGATIONS – JURISDICTION AND VENUE

1. At all times and places relevant herein, and on July 1, 2020, Plaintiff Cheri Williams was the adoptive mother of Tony White, deceased, and a resident of Kansas City, Jackson County, Missouri.

2. Plaintiff is the only persons entitled to bring this action for the wrongful death of Tony White pursuant to Missouri Revised Statute §537.080. Plaintiff brings this action under the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 2671-2680, to recover damages for wrongful death. Pursuant to the FTCA, the United States is responsible for money damages, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Untied States Government while acting within the scope of his or her office or employment.

3. On July 8, 2008 in the Family Court Division of Jackson County, Missouri, a Decree of Adoption was issued naming Cheri Williams as the adoptive mother of Tony White.
4. At all times and places relevant herein, and on July 1, 2020, Tony White was a citizen and resident of Kansas City, Jackson County, Missouri and the adoptive son of Cheri Williams.
5. Venue is proper in the United States District Court for the Western District because the events giving rise to the subject motor vehicle accident of July 1, 2020, and wrongful death of Tony White and Plaintiff's damages and wrongful death claim occurred in this District. Venue is proper in the District Court under 28 U.S.C. §1402(b) and 28 U.S.C. §1391(e) because Plaintiff resides in the Western District of Missouri, and the U.S. District Court has exclusive jurisdiction over Defendants in any action brought under the Federal Tort Claims Act.
6. This Court has jurisdiction over the parties and subject matter of this wrongful death suit pursuant to the FTCA, 28 U.S.C. §1346(b).
7. On October 2, 2020 Plaintiff submitted her wrongful death claim and Form 95 to the USPS National Tort Center, St. Louis, Missouri, which was delivered and received on October 11, 2020. (See Plaintiff's Exhibit 1 – Form 95, which is incorporated by reference.)
8. Plaintiff received the United States Postal Service Claim Denial Letter dated April 19, 2021. (See Plaintiff's Exhibit 2 – USPS Denial Letter, which is incorporated by reference).
9. Plaintiff's damages and the wrongful death of Tony White was caused by the wrongful and negligent conduct of Shaniel Barnes, a government employee with the United States Postal Service under circumstances where the United States Postal Service, if a private person, would be liable to Tony White and Plaintiff in accordance with Missouri Revised Statutes §537.080 and §537.090. The United States Postal Service is an agency of the United States of America. On July 1, 2020 and all times relevant herein, the United States of America was operating a Post Office in Jackson County, Missouri.

10. On July 1, 2020 at approximately 10:07 a.m., Tony White was seriously injured while riding his bicycle when he was struck and run over by a 2017 Dodge Ram 2500 mail delivery van driven by Shaniel Barnes. Tony White died as a direct and proximate result of injuries sustained in the motor vehicle accident.

11. At all times and places relevant herein and on July 1, 2020, Shaniel Barnes was and is a citizen and resident of Jackson County, Missouri, an agent of the United States Postal Service, and she was acting within the scope of her employment with the United States Postal Service at the time of the subject motor vehicle accident which caused Tony White's death.

12. On July 1, 2020, at approximately 10:07 a.m., Tony White was riding a bicycle traveling eastbound on the sidewalk of East 20th Street toward the high school. Because the event giving rise to this cause of action occurred in the State of Missouri, satisfying the most significant relationship test in this action for wrongful death, Missouri substantive law applies.

13. At the aforesaid time and place, Shaniel Barnes was carelessly and negligently operating a 2017 Dodge Ram 2500 van eastbound on East 20th Street when she struck and ran over Tony White as he was attempting to cross the road. The mail van was owned by the United States Postal Service and it controlled and had the right to control the conduct and driving of Shaniel Barnes at all times and places relevant.

14. As a direct and proximate result of the injuries suffered in the motor vehicle accident, Tony White suffered severe and painful injuries and he ultimately died as a direct result of those injuries.

15. Tony White died as a result of the injuries suffered in a motor vehicle accident of July 1, 2020, caused by the carelessness and negligence of Shaniel Barnes and Defendant United States Postal Service as pled herein.

CLAIM FOR RELIEF

16. At all times relevant herein, Shaniel Barnes was an employee and agent of Defendant United States Postal Service, and at the time of the subject motor vehicle accident of July 1, 2020, was delivering mail rendering the United States Postal Service legally liable for the negligence of Shaniel Barnes in causing the subject motor vehicle accident and the death of Tony White and Plaintiff's resulting damages.

17. At all times and places relevant herein, and on July 1, 2020, at the time of the subject motor vehicle accident, Shaniel Barnes was careless, negligent and at fault in causing the subject motor vehicle accident, the death of Tony White and Plaintiff's resulting damages, in the following respects, to-wit:

- a. Shaniel Barnes failed to keep a careful lookout;
- b. Shaniel Barnes knew or by the use of the highest degree of care could have known that there was a reasonable likelihood of collision in the time thereafter to have stopped, swerved, or slowed, but she failed to do so;
- c. Defendant United States Postal Service's vehicle, driven by Shaniel Barnes struck and ran over Tony White causing his death;
- d. Shaniel Barnes drove at a speed which made it impossible to stop within the range of her visibility when she struck Tony White;
- e. Shaniel Barnes failed to avoid a collision with Tony White's bicycle;
- f. Shaniel Barnes failed to take timely and/or appropriate evasive action prior to collision with Tony White's bicycle;
- g. Shaniel Barnes failed to devote sufficient attention to the control of the vehicle and was thereby negligent.

18. As a direct and proximate result of the July 1, 2020 motor vehicle accident described herein, Tony White sustained serious and life-threatening injuries and incredible pain and suffering prior to his death. The medical treatment to treat and try to save his life cost over \$19,930.00.

19. Pursuant to Missouri Revised Statute §537.090, Plaintiff prays for all damages allowing including actual damages and for such damages Tony White suffered between the time of injury and the time of his death and for the recover of which he could have maintained had death not ensued. Plaintiff requests the trier of fact to consider the aggravating circumstances attending the subject motor vehicle accident and the death of Tony White as alleged herein and to award aggravated circumstance damages pursuant to Missouri Revised Statute §537.090.

20. Plaintiff is legally entitled to recover damages from Defendant because of the wrongful death of Tony White, and the bodily injuries suffered by him prior to his death pursuant to Missouri Revised Statute §537.090.

21. As a direct and proximate result of the aforesaid carelessness, negligence, and fault of Shaniel Barnes, Tony White was seriously injured as set forth herein, which resulted in his death and he sustained personal injuries and damages prior to his death in the way of pain, suffering and massive injuries. Tony White survived the initial accident and was taken by ambulance to Children's Mercy Hospital. He died on July 1, 2020 as a direct result of the injuries suffered in the subject motor vehicle accident.

22. As a direct and proximate result of the conduct and actions of Shaniel Barnes and of the death of Tony White, Plaintiff sustained damages and has been and will continue to be permanently deprived of the reasonable value of the society, service, affection, income, comfort, support, and love of Tony White, such as existed prior to the aforesaid motor vehicle accident and she has suffered damages in the past and will continue to suffer damages in the future.

23. As a direct result of the death of Tony White, there were funeral and other related expenses for which Plaintiff is obligated to pay and/or have paid. Plaintiff has and will suffer past and future losses of support as a result of the untimely death of Tony White.

24. As a direct result of the death of Tony White, Plaintiff suffered and will continue to suffer economic loss as established by presumption per Missouri Revised Statute §287.250 in the amount of \$1,680,655.00. (See Plaintiff's Exhibit 3 – Economic Loss Report, which is incorporated by reference).

25. Pursuant to Missouri Revised Statute §537.090, Tony White, by and through the Plaintiff herein, prays for fair and reasonable damages as and for his personal injuries and damages suffered after the aforesaid motor vehicle collision and prior to his death, along with all other damages allowed pursuant to Missouri law.

26. As a direct and proximate result of the carelessness and negligence of Shaniel Barnes, all as aforesaid and of said accident, Plaintiff has been permanently damaged and injured as a result of the death of Tony White.

27. In accordance with Missouri law, Plaintiff prays for fair and reasonable actual damages against Defendant as allowed by Missouri law, for all other allowed damages under Missouri Revised Statute §537.090, for the personal injuries, pain and damages suffered by Tony White prior to his death and for prejudgment and post-judgment interest and the statutory court costs, including all depositions pursuant to Missouri Revised Statute §492.590.

WHEREFORE, Plaintiff prays for judgment against Defendant United States Postal Service for fair and reasonable actual damages under Missouri Revised Statutes §§537.090 and 287.250, for prejudgment and post-judgment interest at the lawful rate per annum, and for such other and further relief as the Court shall deem just and proper under the facts and circumstances

including all statutory costs and all deposition costs and expenses pursuant to Missouri Revised Statute §492.590.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rules of Civil Procedure 38(b), Plaintiff requests a trial by jury of all issues triable as of right.

Respectfully submitted,
MONTEE LAW FIRM, P.C.

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